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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,470	03/30/2004	Paul E. McKenney	BEA920030022US1	4792

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EXAMINER

LEWIS, CHERYL RENE

ART UNIT	PAPER NUMBER
2167	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/813,470	Applicant(s) MCKENNEY ET AL.	
	Examiner Cheryl Lewis	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/30/04 & 12/4/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-23 are presented for examination.

INFORMATION DISCLOSURE STATEMENT

2. The information disclosure statements filed on March 30, 2004 and December 12, 2004, complies with the provisions of MPEP § 609. They have been placed in the application file, and the information referred to therein has been considered as to the merits.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-6, 8-18, and 21-23 recites the limitations "lock-free" and "look-ups" in page 8, line 22, page 9, lines 1-4, page 10, lines 7-9, page 11, lines 9-11, and page 15, lines 1-10. There is insufficient antecedent basis for this limitation in the claim.

4. Claims 1, 3-6, 8-18, and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 3-6, 8-18, and 21-23 recite "lock-free" and "look-ups". The claimed limitation for "lock-free" does not provide a detailed description for what this process is

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and how this process is performed. Likewise, the Specification and claims are silent about "look-ups". At best the Specification, simply states "look-ups to the data file". The Specification does not provide any detailed description about the "look-ups" and how the "look-ups" are performed. As to "lock-free", the Specification states "performing a lock-free look-up of a data file". What is the "lock-free" method and what is the "look-up" method?

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1, 8, 12, 15, 18, 22, and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As follows:

Claims 1, 8, 12, 15, 18, 22, and 23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject. Claim 1 is directed to renaming a file while permitting lock-free look-ups a data file by utilizing a temporary record to which look-ups to the data file resolve while the data file is being renamed. Claim 8 is directed to moving a data file from one location to another within a computer file system permitting lock-free look-ups to a data file by utilizing a temporary record where look-ups to the data file are resolved while the data file is being moved. Claims 18 and 21-23 are directed to a file system storing a files and renaming and automatically moving from one location to another files permitting lock-free file look-ups. The claimed

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inventions, as a whole must accomplish a **practical application**. That is, it must produce a **“useful, concrete and tangible result.”** *State Street, 149 F.3d at 1373, 47 USPQ2s at 1601-02. MPEP 2106*. In each of these cases the **result** is permitting lock-free look-ups to the data file to accomplish renaming or moving the data file. The claimed limitations are an abstraction as they are not **useful, concrete, and tangible** they are not put in any tangible form and not useful because they are not presented in such a way as to produce and/or provide some result that is of utility that may exist in the specification however no specific use is provided for in the claimed invention. Thus the claims are non-statutory and stand rejected under 101 as not **producing a “useful, concrete and tangible result.”**

Further as to claims 12 and 15, these claims are further rejected under 101 because they recite a method and the method is not implemented within any computing apparatus to make it executable. The examiner suggests the applicants to kindly consider amending claims 12 and 15 to recite “a **computer implemented** method”. Claim 18 is directed to a system. This system should also be amended to recite the suggested claim limitations of “a computer implemented system”. As to claims 20-23, these claims are rejected under 101 because they recite a computer-readable medium and an article of manufacture and the medium and article of manufacture as defined in the specification may suggest the computer-readable medium and article of manufacture as interpreted as corresponding to any of the possible media including non tangible media such as transmission media including carrier waves and for these reasons these claims do not have results which are useful concrete and tangible. Thus,

claims 20-23 are computer-readable medium and article of manufacture claims that require a physical component. Again, the examiner suggests the use of claim language "computer-readable storage device" and replacing "article of manufacture" with a "storage device" in an effort to clarify that the claims comprise physical media.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Stockley (Pat. No. 6,865,583 B2 filed March 12, 2001).

9. Regarding Claim 1, Stockley teaches electronics assembly engineering system employing naming and manipulation functions for user defined data structures in a data system using transaction service.

The method and associated system for electronics assembly engineering system employing naming and manipulation functions for user defined data structures in a data system using transaction service as taught or suggested by Stockley includes:

renaming a data file of a computer system while permitting lock-free look-ups (col. 5. lines 13-67, col. 6, lines 1-67, col. 7, lines 1-24 and 37-67, col. 8, lines 1-67) to

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the data file by utilizing a temporary record to which look-ups to the data file resolve while the data file is being renamed (col. 5, lines 13-67, col. 6, lines 1-67, col. 7, lines 1-24 and 37-67, col. 8, lines 1-67).

10. Regarding Claim 2, the limitations of this claim has been noted in the rejection of claim 1 presented above. It is therefore rejected as set forth above.

11. Regarding Claim 3, Stockley teaches atomically renaming the data file of the computer file system while permitting lock-free look-ups to the data file comprises atomically renaming the data file of the computer file system such that once a look-up of an old name of the data file necessarily fails, any subsequent look-up of a new name of the data file necessarily fails, any subsequent look-up of a new name of the data file necessarily succeeds, and such that once a look-up of the new name of the data file necessarily succeeds, any subsequent look-up of the old name of the data a file necessarily fails (col. 5, lines 13-67, col. 6, lines 1-67, col. 7, lines 1-24 and 37-67, col. 8, lines 1-67).

12. Regarding Claims 4-7, the limitations of these claims have been noted in the rejections above. They are therefore rejected as set forth above.

13. Regarding Claims 8 and 21-23, Stockley teaches atomically moving a data file from one location to another location within a computer file system (col. 5, lines 13-67, col. 6, lines 1-67, col. 7, lines 1-24 and 37-67, col. 8, lines 1-67) while permitting lock-free look-ups to the data file by utilizing a temporary record to which look-ups to the data file resolve while the data file is being moved (col. 5, lines 13-67, col. 6, lines 1-67, col. 7, lines 1-24 and 37-67, col. 8, lines 1-67).

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14. Regarding Claims 9-20, the limitations of these claims have been noted in the rejections above. They are therefore rejected as set forth above.

NAME OF CONTACT

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (571) 272-4113. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

(571) 273-4113 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/ Technology Center (571) 272-2100.

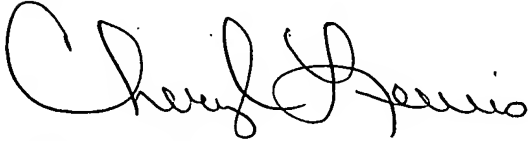
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Cheryl Lewis". The signature is stylized with a large initial "C" and a long, sweeping underline.

Cheryl Lewis
Patent Examiner
September 18, 2006